

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

ENRIQUE ZACARIAS DIAZ,

Plaintiff,

v.

S. WASHBURN and H. NEVIL,

Defendants.

Case No. 2:22-cv-00796-YY

ORDER ADOPTING F&R

Enrique Zacarias Diaz, Oregon State Correctional Institution, 3405 Deer Park Drive SE
Salem, OR 97310. Pro se.

Dylan J. Hallman, Oregon Department of Justice, 1162 Court Street NE, Salem, OR 97301.
Attorney for Defendants.

IMMERGUT, District Judge.

On May 30, 2023, Magistrate Youlee Yim You issued her Findings and Recommendation (“F&R”), ECF 32, recommending that Defendants S. Washburn and H. Nevil’s (collectively, “Defendants”) Motion for Summary Judgment, ECF 25, be granted. Plaintiff filed objections on June 9, 2023, ECF 36,¹ to which Defendants timely responded, ECF 40. This Court has reviewed

¹ Plaintiff also filed objections to Defendants’ Reply to Motion for Summary Judgment on June 9, 2023. ECF 37; *see also* ECF 29. As Plaintiff’s filing is untimely, *see* ECF 30, this Court does not consider these objections in ruling on Judge You’s F&R.

de novo the portions of the F&R to which Plaintiff objected. This Court accepts Judge You's conclusions and ADOPTS Judge You's F&R in full.

STANDARDS

Under the Federal Magistrates Act ("Act"), as amended, the court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). If a party objects to a magistrate judge's F&R, "the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.* But the court is not required to review, de novo or under any other standard, the factual or legal conclusions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149–50 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc). Nevertheless, the Act "does not preclude further review by the district judge, sua sponte" whether de novo or under another standard. *Thomas*, 474 U.S. at 154.

CONCLUSION

This Court has carefully reviewed de novo the portions of Judge You's F&R to which Plaintiff objected. Judge You's F&R, ECF 32, is adopted in full. This Court GRANTS Defendants' Motion for Summary Judgment, ECF 25. This case is DISMISSED with prejudice.

IT IS SO ORDERED.

DATED this 7th day of July, 2023.

/s/ Karin J. Immergut
Karin J. Immergut
United States District Judge